

AUGUST 27, 2019

LAW ALERT

M David Kroot

Lynn Hutchins

Karen M. Tiedemann

Thomas H. Webber

Dianne Jackson McLean

Michelle D. Brewer

Jennifer K. Bell

Robert C. Mills

Isabel L. Brown

James T. Diamond, Jr.

Margaret F. Jung

Heather J. Gould

William F. DiCamillo

Amy DeVaudreuil

Barbara E. Kautz

Erica Williams Orcharton

Luis A. Rodriguez

Rafael Yaquián

Celia W. Lee

Dolores Bastian Dalton

Joshua J. Mason

Eric S. Phillips

Elizabeth R. Klueck

Jeffrey A. Streiffer

Erik Ramakrishnan

Rye P. Murphy

Justin D. Bigelow

Aileen T. Nguyen

Katie Dahlinghaus

San Francisco

415 788-6336

Los Angeles

213 627-6336

San Diego

619 239-6336

Goldfarb & Lipman LLP

GOVERNOR SIGNS LEGISLATION MAKING LOW BARRIER NAVIGATION CENTERS A USE BY RIGHT

On July 31, 2019, the Governor signed AB 101, which took immediate effect. Among other issues, the bill enacts new penalties for local agencies that fail to adopt housing elements in substantial compliance with state law, and creates or enhances multiple grant funds designed to address homelessness and the state's affordable housing shortage.

One section of the bill enacts a new article to the Government Code (sections 65660 to 65668) entitled "Low Barrier Navigation Centers," which could prove to be a powerful new tool for local agencies and nonprofit organizations wishing to provide services to individuals and families experiencing homelessness.

Under the legislation, homeless shelters qualifying as Low Barrier Navigation Centers are now a "use by right" in residential zoning districts throughout California, including in charter cities.¹ This includes mixed-use zoning districts and otherwise nonresidential zoning districts where multi-family uses are permitted.² The legislation also provides a statutory exemption under the California Environmental Quality Act ("CEQA") for any action "taken by a public agency to lease, convey, or encumber land owned by a public agency, or to facilitate the lease, conveyance, or encumbrance of land owned by a public agency, or to provide financial assistance to, or otherwise approve, a Low Barrier Navigation Center."³

WHAT IS A LOW BARRIER NAVIGATION CENTER?

A Low Barrier Navigation Center is defined as a "Housing First, low-barrier, service-enriched shelter focused on moving people to permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing."⁴ "Housing First" means "the evidence based model that uses housing as a tool, rather than a reward, for recovery and that centers on providing or connecting homeless people to permanent housing as quickly as possible."⁵ "Low Barrier" refers to best practices to reduce barriers to entry.⁶ Examples include allowing the presence of partners if the center is not population-specific (such as a shelter for survivors of domestic violence), storage space for possessions, the ability to keep pets, and at least minimal privacy measures such as partitions around beds.⁷

WHAT IS A "USE BY RIGHT"?

"Use by right" means that a local planning agency's review of a proposed Low Barrier Navigation Center may not require a conditional use permit, planned unit development permit, or other discretionary approval that would constitute a project for

¹ [See Gov. Code, §§ 65660, 65662, 65666.](#)

² [Id. at § 65662.](#)

³ [Id. at § 65660, subd. \(b\).](#)

⁴ [Id. at § 65660, subd. \(a\).](#)

⁵ [Welf. & Inst. Code, § 8255, subd. \(d\)\(1\).](#)

⁶ [Gov. Code, § 65660, subd. \(a\).](#)

⁷ [Ibid.](#)

purposes of CEQA.⁸ If a subdivision is required, the applicant must comply with the Subdivision Map Act and the local subdivision ordinance, which, however, may require review under CEQA.⁹ Also, a local ordinance may provide that use by right does not exempt a proposed Low Barrier Navigation Center from design review, but the design review would not constitute a project for purposes of CEQA.¹⁰

WHAT OTHER REQUIREMENTS APPLY TO LOW BARRIER NAVIGATION CENTERS?

To qualify as a use by right, a Low Barrier Navigation Center also must meet the following requirements:¹¹

- Offers services to connect people to permanent housing "through a service plan that identifies services staffing."
- Linked to a coordinated entry system.
- Has a system for entering client data into the Homeless Management Information System.

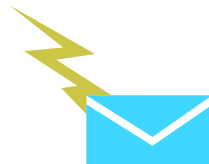
- Complies with the core components of Housing First listed in [Welfare and Institutions Code Section 8255](#), in addition to any applicable guidelines or regulations incorporating these core components that may be imposed by a state agency funding the Low Barrier Navigation Center or coordinating in its implementation or administration.

HOW LONG DOES A LOCAL AGENCY HAVE TO APPROVE AN APPLICATION FOR A LOW BARRIER NAVIGATION CENTER?

A planning application for a Low Barrier Navigation Center must be reviewed for completion within 30 days pursuant to the Permit Streamlining Act.¹² Within 60 days after a complete application is received, it must be acted upon by the local agency.¹³

For more information on AB 101, and Low Barrier Navigation Centers in particular, please contact Barbara Kautz, Erik Ramakrishnan, or any other Goldfarb & Lipman attorney at 510-836-6336.

To receive Law Alerts by e-mail, please visit:
[Goldfarb & Lipman News and Blog](#)



⁸ See [Gov. Code, § 65660, subd. \(b\)](#), citing *id.* at [§ 65583.2, subd. \(i\)](#).

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Id.* at [§ 65662](#).

¹² *Id.* at [§ 65664](#), citing *id.* at [§ 65943](#).

¹³ *Id.* at [§ 65664](#).